



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/850,343	05/07/2001	Christopher R. Vincent	POU920000191US1	2305

23334 7590 05/26/2006

FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI
& BIANCO P.L.
ONE BOCA COMMERCE CENTER
551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON, FL 33487

EXAMINER

SWEARINGEN, JEFFREY R

ART UNIT	PAPER NUMBER
----------	--------------

2145

DATE MAILED: 05/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 09/850,343	Applicant(s) VINCENT, CHRISTOPHER R.	
Examiner Jeffrey R. Swearingen	Art Unit 2145	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 13 March 2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


JASON CARDONE
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive.

Applicant failed to substantively address the provisional double patenting rejection.

Applicant argued that Bracho, Jacobs, and de Vries, or any combination thereof, failed to disclose a resource request to be published is received at a first user node of the network from one of the user nodes through a direct connection. Applicant argued no information was transmitted through direct connections between user nodes. Applicant failed to explicitly define the terminology of a "direct connection" or provide a definition for one of ordinary skill in the art to use; therefore the broadest reasonable interpretation of a connection must be applied when examining the claim language. None of the cited references explicitly stated that any connection performed was required to be made through a router, server, or other connecting entity or device; therefore the references cover any type of connection between computers including direct connections. Applicant never explicitly stated that a connection was required to be made directly with another machine, and further failed to suggest how that direct connection could be implemented. Using the broad definition of a direct connection since no definition was provided by Applicant and no suggestion was provided by Applicant to indicate the breadth and scope of a direct connection within the specification, and further based on Applicant's own piecemeal analysis of the references, data was received at a user node of the network from another user node of the network through a direct connection.

Applicant argued that Bracho, Jacobs, and de Vries, or any combination thereof, failed to disclose determining whether to send the resource request to a publish-subscribe server node or to send the resource request to another of the user nodes. Applicant admitted that Bracho sent events and advertisements to the subscriber user node. When the request was sent in Bracho, it was determined whether to send the resource request to a publish-subscribe server node or to send the resource request to another of the user nodes. The determination was made by Bracho to send the resource request to another user node. Applicant's claim language is fulfilled by Bracho. Applicant could overcome this claim language barrier by rewording the language in the determining phrase to eliminate the "or" provision and finding an alternate way of stating Applicant's intended claim scope.

Applicant argued that Bracho, Jacobs, and de Vries, or any combination thereof, failed to disclose the resource request is forwarded from the first user node or another user node, or a transmitting interface performing said forwarding. Jacobs addressed the need for forwarding any type of data resulting from a request. Jacobs taught the concept of forwarding, which added to the combination of Brach, Jacobs, and de Vries to allow for forwarding any type of data in the server system. Forwarding data from a request is a step beyond forwarding the request, therefore making the forwarding of the request obvious. Such a request and forwarding of it is also found in any storage area network reference in publication.